

3. Count II fails to state a claim of negligence per se because Plaintiff does not identify any specific statute that has allegedly been violated. Furthermore, even if Plaintiff had identified a particular statute or regulation, Plaintiff's claim should be dismissed because Plaintiff failed to exhaust state administrative remedies.

4. Count III fails to state a cognizable claim for private nuisance, because Plaintiff does not allege that he has a real property interest in the "inland waters and inshore fisheries of the coastal zone, Gulf of Mexico and Gulf Coast States."

5. Count IV fails to state a cognizable claim for public nuisance, because Plaintiff fails to allege that the harm he has allegedly suffered differs substantially from the harm suffered by the public at large.

6. Count VI fails to state a claim for strict liability, because oil and gas operations are not abnormally dangerous activities as a matter of settled Mississippi law.

The forgoing grounds for dismissal are more fully set forth in the supporting memorandum of law, which APC and MOEX have filed concurrently herewith and incorporate here by reference.

WHEREFORE, APC and MOEX respectfully move this Court for entry of an order dismissing all claims against them pursuant to Fed. R. Civ. P. 12(b)(6).

Respectfully submitted,

Dated: July 20, 2010

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

THIS, the 20th day of July, 2010.

s/Jack L. Wilson

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